



STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

September 24, 2014

Howard Zucker, M.D.
Acting Commissioner
Department of Health
Corning Tower Building
Empire State Plaza
Albany, NY 12237

Re: Report 2011-0045

Dear Dr. Zucker:

Our Office examined¹ select payments made by the Department of Health (DOH) to Cancer Service Network, Inc. (CSN) under nine clinical services contracts and nine administrative services contracts for services provided during the period of April 1, 2010 through March 31, 2011 for the Cancer Services Program. The objective of our examination was to determine if contract payments DOH made to CSN were appropriate. As you know, this examination led to an admission of fraud by the contractor.

A. Results of Examination

We found payments DOH made to CSN under the clinical services contracts for cancer screenings were appropriate. However, we found serious problems with payments made under the administrative services contracts. Mr. Joseph Junkovic, Chairman of CSN, knowingly overbilled DOH and was paid \$397,325. This overbilling included: (i) \$73,568 for at least 1,903 hours that he did not work, (ii) \$192,892 for 4,732 hours he claims to have worked but could not provide documentation to substantiate he worked those hours, (iii) \$45,626 for 2,085 hours for work subcontractors did not perform, and (iv) \$85,239 for cost of living adjustment (COLA) payments he obtained through false certifications.

Given the pervasive nature of the overcharges, we believe it is likely that Mr. Junkovic has been defrauding DOH since April 2008, the inception of CSN's nine administrative services contracts. If the findings during our examination period are indicative of Mr. Junkovic's actions since the inception of these contracts, he may have received up to \$966,897 in inappropriate payments.

¹We performed our examination in accordance with the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution, as well as Article II, Section 8, and Article VII, Section 111 of the State Finance Law.

This includes \$715,090, or the total amount DOH paid Mr. Junkovic, for hours he either did not work or could not support that he worked, and \$114,930 in inappropriate COLA payments. Based on the monthly overpayment charged for JLJ Consulting's subcontractors, we project that Mr. Junkovic was paid approximately \$136,877 for hours subcontractors did not work.

We found Mr. Junkovic was able to carry out this fraud because DOH officials approved CSN's invoices for payment without verifying those payments were correct or complied with the terms and conditions of the contracts. In addition, DOH distributed COLA payments to CSN based primarily on Mr. Junkovic's written certifications that he would use the funds in accordance with the applicable laws. However, DOH officials did not monitor how those funds were used.

We worked with the Division of Investigations and referred our findings to the United States Attorney's Office – Southern District of New York (US Attorney). Based upon our collaboration with the US Attorney, on August 14, 2013, Mr. Junkovic was arrested for one count of mail fraud and one count of theft of US government property. On September 24, 2014, Junkovic was sentenced in United States District Court for the Southern District of New York to over a year in federal prison and ordered to pay \$360,556 in restitution and criminally forfeit \$360,556.

We shared a draft report with DOH officials and considered their comments (Attachment A) in preparing this final report. DOH officials agreed with our recommendations and will recover \$29,691 in COLA payments paid to CSN for the 2011-2012 budget year. DOH will also determine and recover the inappropriate amount paid to CSN for Mr. Junkovic's services and JLJ Consulting's subcontractors' services since the inception of the contracts in 2008. DOH has implemented policies and procedures to enhance their monitoring of the Cancer Services Program contractors and to provide assurance that payments for services and COLA are appropriate.

B. Background and Methodology

The Cancer Services Program provides free cancer screenings to uninsured and underinsured income eligible New York State residents. DOH administers the program through multiple vendors in each of eight regions to provide clinical and administrative services necessary to carry out the program. Both the clinical and administrative services contracts allow the vendors to subcontract services.

The clinical services contracts provide funding for health care providers to perform cancer screenings. Administrative services contracts provide for fiscal, data, and case management services, outreach activities, and program coordination. Administrative service responsibilities also include billing DOH and reimbursing health care providers under the clinical services

contracts and paying vendors and subcontractors for services provided under the administrative contracts.

DOH and CSN entered into nine clinical services contracts totaling approximately \$26.74 million and nine administrative services contracts totaling approximately \$7.74 million. CSN did not perform any clinical or administrative services under these 18 contracts. Instead, CSN subcontracted all services to various vendors, including JLJ Consulting Group, LTD (JLJ Consulting), a for-profit corporation. Mr. Joseph Junkovic is the CEO of JLJ Consulting and its sole employee.

DOH's contracts with CSN are structured as, "not-to-exceed" contracts. As such, DOH should reimburse the subcontractor for actual costs only, not to exceed the annual amount budgeted for that service. In addition, Appendix C of the contracts requires CSN to submit proof of performance in order to receive payment from DOH. Proof of performance could include such things as complete and accurate billing vouchers and time sheets to support all services rendered.

CSN entered into subcontracts with JLJ Consulting for administrative services. JLJ Consulting, in turn, paid four independent contractors for some of those administrative services.

To accomplish our objective, we examined contract payments DOH made to CSN totaling \$693,710 during our examination period. This includes administrative services payments totaling \$439,210, COLA payments totaling \$195,197, and select clinical services payments totaling \$59,303. We analyzed the terms and conditions of the contracts; interviewed DOH officials and Mr. Junkovic; and examined vouchers, invoices, time records and other supporting documentation for JLJ Consulting and its subcontractors.

As a result of the findings, the Comptroller obtained and reviewed bank records related to CSN, JLJ Consulting, and various JLJ Consulting subcontractors dating back to 2008. We also requested additional documentation from DOH, such as COLA certifications, vouchers, and supporting documentation dating back to 1997, when Mr. Junkovic initially began contracting with DOH.

C. Details of Findings

Fraudulent Overpayments For Hours Billed Under JLJ Consulting's Services

Mr. Junkovic billed DOH through CSN for 6,635 hours he claimed to have worked under the JLJ Consulting subcontract for the budget year ended March 31, 2011. This number of hours equates to approximately 127.5 hours per week (or more than 18 hours per day, seven days a week) and is the maximum number of hours allowed under JLJ Consulting's subcontracts with

CSN. However, Mr. Junkovic admitted to the Comptroller's Office that at most he worked 91 hours per week or 4,732 hours for the budget year. Based on this admission, Mr. Junkovic conceded that he knowingly overbilled DOH and at least was paid \$73,568 for 1,903 hours he did not work.

However, based upon our examination, the evidence suggests that the number of hours Mr. Junkovic did not work, but for which he received payment, was considerably more than 1,903 hours he admitted. In order to work the 91 hours a week claimed, we estimate Mr. Junkovic would have had to work from 5 am to 8 pm, five days a week plus an additional 16 hours on the weekends, for the entire 52 weeks in a year. These hours are exclusive of lunches, breaks, vacations, holidays, doctor or dental appointments, or time spent at professional events/conferences. It also would not include the time Mr. Junkovic spent providing other tax and consulting services for JLJ Consulting which he admitted to performing for other private clients.

In addition, we found Mr. Junkovic billed DOH for 457 of the 6,635 hours of work while on extended trips. This includes 24 days he spent in Vienna, Austria in August 2010 and 13 days he spent in Miami Beach, Boston, and Italy between April and June 2010.

Moreover, although required by the contracts, Mr. Junkovic could not substantiate the \$192,892 he received for allegedly working the 91 hours he claimed he worked because he did not maintain time records. In the absence of complete and accurate time records, DOH cannot determine the number of hours Mr. Junkovic worked or if he correctly billed for his services.

Fraudulent Overpayments for Hours Billed For JLJ Consulting's Subcontractors

JLJ Consulting hired four subcontractors to carry out some of the work required under the administrative contracts. According to JLJ records, these subcontractors charged JLJ Consulting \$52,110 for 2,606 hours of work, as evidenced by their timesheets during our examination period. However, we found Mr. Junkovic billed DOH through CSN for \$97,736 for 4,691 hours of subcontractor work even though the timesheets did not support these charges. This amount DOH paid was equal to the total amount budgeted for those subcontracts, which allowed Mr. Junkovic to pay the subcontractors \$52,110 and retain the remaining \$45,626 for his personal enrichment.

Based on the hours Mr. Junkovic billed for his own services as well as that of the subcontractors, we reviewed vouchers and other supporting documentation from the beginning of the contract period in April 2008 and found Mr. Junkovic maintained a consistent pattern of billing DOH an unreasonable number of hours per week for his services. If the findings during our examination period are indicative of Mr. Junkovic's actions since the inception of the

contracts in April 2008, he may have inappropriately received up to \$715,090 for administrative services he charged DOH for work allegedly performed under JLJ Consulting during the contract period. In addition, based on the monthly amount of fraudulent overcharges in the examination period, we project that Mr. Junkovic received approximately \$136,877 in inflated charges for JLJ Consulting's subcontractors' services during the contract period.

Fraudulent and Inappropriate COLA Payments

Under New York State Law (L2006, C. 57, Part C, § 1), Cancer Services Program providers are eligible to receive an annual COLA. The 2006 Law and the terms and conditions of the administrative services contracts specify that the COLA funds must be used: (i) to promote the recruitment and retention of staff or (ii) to respond to other critical non-personal service costs.

In order to receive the COLA, providers must submit a signed, written certification to DOH attesting that the funds will be used for the purposes outlined above. DOH distributes the COLA payments to providers based primarily on receiving the signed certification and does not monitor how Cancer Services Program providers use the COLA payments.

For the 2010-2011 budget year, Mr. Junkovic signed nine certifications stating that CSN would use the COLA payments "to promote the recruitment and retention of staff or respond to other critical non-personal service costs." Based on these certifications, DOH paid CSN COLA payments totaling \$195,197.

We found Mr. Junkovic distributed \$85,239 in COLA payments to JLJ Consulting and the remaining \$109,958 to other CSN subcontractors, such as the American Cancer Society, Staten Island University Hospital and Richmond University Medical Center. We found the \$109,958 in COLA funds was appropriately used to retain staff. However, we found JLJ Consulting was not entitled to the \$85,239 in COLA payments it received from CSN because the funds were not used to promote the recruitment and retention of staff (himself), or to respond to other critical non-personal service costs, as Mr. Junkovic certified to DOH. Instead, Mr. Junkovic pocketed the \$85,239 COLA payment distributed to JLJ Consulting, claiming he used the money to "pay himself for hours worked that he was not paid for." However, as stated above, for the 2010-2011 budget year, Mr. Junkovic billed and was paid by DOH for hours he did not work.

Based on Mr. Junkovic's failure to use the COLA funds for the purposes certified and his statement that he used the COLA to pay himself for hours that he worked but was not paid for, we conclude Mr. Junkovic knowingly signed nine false certifications to obtain \$85,239 in COLA payments he was not entitled to receive from DOH for his personal enrichment.

Subsequent to our examination period, we learned Mr. Junkovic also signed five certifications to obtain an additional \$111,891 in COLA payments for the 2011-12 budget year. Of this amount, we determined he retained \$29,691 for his personal enrichment. The remaining \$82,200 was distributed to other subcontractors.

Consequently, Mr. Junkovic was able to obtain \$114,930 (\$85,239 + \$29,691) in fraudulent and inappropriate COLA payments.

Recommendations

- 1) Recover \$29,691 in COLA payments paid to CSN for the 2011-2012 budget year.*
- 2) Determine and recover the inappropriate amount paid to CSN for Mr. Junkovic's services and for JLJ Consulting's subcontractors' services, since the inception of the administrative contracts in 2008.*
- 3) Develop and implement guidelines to facilitate effective monitoring of Cancer Services Program contracts and contract-related payments.*
- 4) Develop guidance to ensure Cancer Services Program providers expend COLA payments in accordance with the 2006 Laws and the terms and conditions of the administrative services contracts.*

We thank the management and staff of the Department of Health for the courtesies and cooperation extended to our auditors. Since your response is in agreement with this report, there is no need for a further response unless you feel otherwise. If you choose to provide a response, we would appreciate it by October 24, 2014.

Sincerely,

Bernard J. McHugh
Director of State Expenditures

Enc: Attachment A

cc: Lori Conway
Diane Christensen

Howard A. Zucker, M.D., J.D.
Acting Commissioner of Health

NEW YORK
state department of
HEALTH

Sue Kelly
Executive Deputy Commissioner

June 25, 2014

Mr. Bernard J. McHugh
Director of State Expenditures
Office of the State Comptroller
Division of State Government Accountability
110 State Street
Albany, NY 12236-0001

Dear Mr. McHugh:

Enclosed are the Department of Health's comments on the Office of the State Comptroller's Draft Audit Report 2011-0045 entitled, "Examination of Payments the Department of Health Made to Cancer Service Network."

Thank you for the opportunity to comment.

Sincerely,



Sue Kelly
Executive Deputy Commissioner

Enclosure

cc: Michael J. Nazarko
Robert W. Locicero, Esq.
Guthrie S. Birkhead, M.D., M.P.H.
Barbara A. Wallace, M.D., M.S.P.H.
Ellen Anderson
Bradley Hutton
Edward Cahill
Marybeth Hefner
Diane Christensen
Lori Conway

**Department of Health
Comments on the
Office of the State Comptroller's
Draft Audit Report 2011-0045 Entitled
Examination of Payments the Department of Health
Made to Cancer Service Network**

The following are the Department of Health's (Department) comments in response to the Office of the State Comptroller's (OSC) Draft Audit Report 2011-0045 entitled, "Examination of Payments the Department of Health Made to Cancer Service Network."

Recommendation #1:

Recover \$29,691 in COLA (cost of living adjustment) payments paid to CSN for the 2011-2012 budget year.

Recommendation #2:

Determine and recover the inappropriate amount paid to CSN for Mr. Junkovic's services and for JLJ Consulting's subcontractors' services, since the inception of the administrative contract in 2008.

Response #1 and #2:

The Department is in full agreement of the findings pertaining to money owed by Mr. Junkovic to the State of New York. The Department will work with OSC on the most appropriate mechanism to recover the funds owed.

Recommendation #3:

Develop and implement guidelines to facilitate effective monitoring of Cancer Service Program contracts and contract-related payments.

Response #3:

The Department has enhanced monitoring of Cancer Services Program contracts and contract-related payments:

- Reviewed, revised and distributed the State Grant Voucher Preparation and Related Processing guidance document in November 2013 to be used by both Department staff and contractors as a tool to assist in the preparation, submittal, and timely processing of vouchers/claims for payment, and also to provide key strategies for assuring compliance with all State requirements.
- Beginning in January 2013, instituted an enhanced voucher trace initiative. Under this initiative, Division of Chronic Disease Prevention fiscal staff conduct an additional desk review of selected state grant contract vouchers ongoing throughout the year to identify any

issues, recoup costs when applicable, provide cross-training to fiscal staff on best practices and set and maintain a standard for contractors and staff in regard to ongoing intensive monitoring of contracts.

- Implemented a contract management workgroup to reinforce that all contract management staff are aware of and are able to implement all of the State contracting requirements and procedures; that clear expectations, roles and responsibilities are identified to support implementation of all requirements and procedures; and to ensure collaboration and provision of support across programs.
- Added a requirement to the 2013 Integrated Breast, Cervical and Colorectal Cancer Services Program request for applications (RFA) issued in May 2013, to ensure that applicant organizations/contracting agencies are responsible for direct implementation of the program scope of work and subcontracting cannot represent more than 50% of the infrastructure budget/scope of work.
- In addition, the Cancer Services Program is planning to implement an on-line performance management system over the next two years that will require contractors to submit enhanced monthly reports on key contract deliverables.

Recommendation #4:

Develop guidance to ensure Cancer Service Program providers expend COLA payments in accordance with the 2006 Laws and the terms and conditions of the administrative services contracts.

Response #4:

Over the past year, the Center for Community Health (Center) has trained Center staff on the appropriate use of COLA funds. A detailed six-page overview of allowable COLA expenses has been distributed to all Center COLA-eligible contractors. Staff training has included the distribution of a frequently asked questions document that has been distributed to Center staff and is routinely updated as questions are received from contractors and staff. Additionally, COLA claims are now required to be submitted with backup documentation and detail that had not previously been routinely requested or required. Together, these actions will ensure proper COLA expenses in accordance with the 2006 Laws.